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9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 In re

13 THE ROMAN CATHOLIC ARCHBISHOP
OF SAN FRANCISCO,

14 Debtor.
15
16

Case No. 23-30564

Chapter 11

**COMMITTEE’S RESPONSE TO
DECLARATION OF JOSEPH J.
PASSARELLO IN SUPPORT OF
CHAPTER 11 PETITION AND
DEBTOR’S EMERGENCY MOTIONS**

[Relates to Docket No. 14]

18 Judge: Hon. Dennis Montali

19 **PRELIMINARY STATEMENT**
20

21 At least 550 children, ranging in ages from 2 to 17, were sexually abused in the
22 Archdiocese of San Francisco. Each was profoundly affected by this most intimate physical and
23 emotional violation. Upon passage of California’s “window” in the statute of limitations, each had
24 an opportunity to speak truth to power; their truth is what happened to them and how the
Archdiocese, its parishes, and its affiliates are collectively responsible to redress their life-long
25 harm. As one Committee member said to Archbishop Cordileone at the 341(a) meeting:

26 As children, we were unprotected, we were victimized. We had no voice and
27 no recourse. We were maimed, and this how we walked through life. . . . [A]s you
pointed out and others have pointed out [because of the bankruptcy], we do not get a
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1 day in court like other American citizens would get. We do not have an opportunity
2 to have a voice before a judge and jury.¹

3 On the first day of the case—before survivors were represented by an official creditors’
4 committee and had time to sufficiently research the Archdiocese’s unsupported statements and
5 legal conclusions—the Archdiocese gave the Court its view of, among other topics, the “Debtor’s
6 Legal Structure”, “[t]he Clergy Sex Abuse Crisis and the RCASF Response”, and “Events
7 Precipitating the Bankruptcy Case.”² The Committee presents this response to that one-sided
8 presentation.

9 This response, although not linked to any request for relief, is necessary to correct the
10 record currently on this Court’s docket. The Committee contests the Debtor’s conclusions and
11 many of the statements presented as objective facts in the Passarello Declaration. For example, the
12 Archdiocese is not operationally separate from the parishes, schools, cemeteries and “various other
13 Catholic-based social and community service organizations that operate in the Archdiocese.”³ It is
14 a single enterprise with the Archbishop at the hub and the various divisions or affiliates serving as
15 the spokes.⁴ The parishes, schools, and cemeteries are divisions of the Archdiocese, not separate
16 legal entities. The Archdiocese created and capitalized the Support Corporations⁵ to put distance
17 between the enterprise’s assets and its liabilities. According to the City and County of San
18 Francisco, the Support Corporations were created following the first California “window” so that
19 the Archdiocese “could demonstrate, when, if and as necessary, that both of its pockets are empty”
20 in order to protect its assets from future litigants’ claims or other liabilities.”⁶ Additionally,
21 compared to most other Catholic dioceses,⁷ this Archdiocese is failing to do even the bare
22 minimum to prevent future abuse or promote reconciliation with sexual abuse survivors. Finally,

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24 ¹ Declaration of Brittany Michael (“Michael Decl.”), Ex. 1, 31:18-20 (Transcript of Continued 341 Meeting on
October 12, 2023).

25 ² Declaration of Joseph J. Passarello in Support of Chapter 11 Petition and Debtor’s Emergency Motions (“Passarello
Declaration”), Docket No. 14; Declaration of Joseph J. Passarello In Support of Debtor In Possession’s Emergency
26 Motion to Continue Insurance Programs (“Passarello Insurance Declaration”). Docket No. 12-1.

³ *Id.* at ¶15.

27 ⁴ Michael Decl., Ex. 2, at 32. (Reply Brief of Petitioner the Roman Catholic Archbishop of San Francisco, a
Corporation Sole, on the Second Cause of Action (“Reply Brief”), No. CGC-10-498795).

⁵ Defined below.

28 ⁶ Michael Decl., Ex. 2, at 1 (Reply Brief).

⁷ The Committee does not endorse that *any* Catholic diocese is adequately protecting the rights of children.

1 this bankruptcy case was clearly not filed for the benefit of survivors, but rather to protect the
2 interests of the Archdiocese and its enterprises.

3 **PART I**

4 **Legal Structure of the RCASF and Its Enterprise**

5 The Roman Catholic Archbishop of San Francisco (“Debtor” or “Archdiocese” or
6 “RCASF”) is a corporation sole, which is the incorporation of the office of the Archbishop of San
7 Francisco. The leader of the Archdiocese, the Archbishop, is the sole member of the corporation
8 sole.

9 One purpose of the corporation sole is to ensure the continuity of property ownership for
10 the religious entity and not for the natural person holding the office of the Archbishop.⁸ Under
11 California law,⁹ the parishes, schools, and cemeteries in the Archdiocese are not incorporated and
12 are not unincorporated associations with a separate legal identity from the Archdiocese. The
13 parishes, schools, and cemeteries are divisions of the RCASF; their property interests are property
14 of the Archdiocese. Mr. Passarello’s non-expert legal conclusion that parishes are “unincorporated
15 associations” has been contradicted by RCASF before and after his testimony. In the June 30,
16 2020 and 2021 audited financial statements for the Central Administrative Office of the
17 Archdiocese, the Archdiocese’s own auditors explain the Debtor’s structure as follows:

18 The Roman Catholic Archbishop of San Francisco, a California Corporation
19 Sole (the “Corporation Sole”), was incorporated on February 24, 1854. The
20 Corporation Sole operates the Central Administrative Office of the Roman Catholic
21 Archdiocese of San Francisco (the “Chancery”). Other *operating divisions* of the
Corporation Sole include certain parishes, schools, cemeteries, and certain Catholic
sites within the Archdiocese such as the Vallombrosa Center.¹⁰

22 Moreover, RCASF’s attorneys have admitted that the parishes do not exist as civil entities.
23 At the Section 341(a) meeting, Debtor’s defense counsel for the past 40 years stated that the
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26 ⁸ *Berry v. Society of Saint Pius X*, 69 Cal. App. 4th 354 (1999) (“One purpose of the corporation sole is to insure [sic]
27 the continuation of ownership of property dedicated to the benefit of a religious organization which may be held in the
name of its titular head.”); *In re Roman Catholic Archbishop of Portland*, 335 B.R. 842, 856 (Bankr. D. Or. 2005).

28 ⁹ Arguments regarding entity structures under Canon law, the internal governance code of the Catholic Church, are not
relevant in this civil court.

¹⁰ Michael Decl., Ex. 3 (2021 Financial Statement) (emphasis added).

1 parishes have not appeared in any of the state court lawsuits because “[t]hey do not exist.”¹¹ Some
2 Archdiocese affiliates are incorporated, but the Archbishop ultimately controls them.

3 **Parishes and Schools**

4 There are eighty-eight parishes in the Archdiocese of San Francisco. There are thirteen
5 Catholic high schools, fifty-four elementary schools, and twenty-four preschools.¹² The
6 Committee disputes the Debtor’s characterization of the parishes as “unincorporated associations”
7 under California law and dismisses as irrelevant its characterization of the parishes as “juridic
8 persons” under Canon Law. Momentarily putting aside the dispute, the Debtor and Committee
9 agree that the Debtor, as a corporation sole, operates the parishes and schools within the
10 Archdiocese.¹³ The Archdiocese has policies controlling every aspect of parish operations, ranging
11 from how to run bingo games, access the parishes’ Quickbooks accounting systems, contract for
12 remodeling projects in excess of \$2500, manage employees, handle legal affairs, and dispose of
13 assets.¹⁴

14 Real property, and its ownership, will be a central issue in this case. Despite Mr.
15 Passarello’s statements, there is no evidence that the property transferred to the Archdiocese in
16 1854 was conveyed for the benefit of parishes, most of which likely did not even exist in 1854.
17 Absent a deed to the RCASF reflecting the interest of the parishes in the real estate, or clear and
18 convincing proof that parishes ever had an interest in the RCASF’s property, the Archdiocese
19 owned the legal and beneficial interests of real property deeded to it.¹⁵
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24 ¹¹ *Id.*, Ex. 1, 39:5-9 (Transcript of Continued 341 Meeting on October 12, 2023).

25 ¹² See *Archdiocese of San Francisco Catholic Directory 2023-24 Edition*, pp. 37, 48, 52, available at
<https://www.sfarchdiocese.org/wp-content/uploads/2023/11/2023-2024-ArchSF-Directory.pdf>.

26 ¹³ Michael Decl., Ex. 4, at 4 (Archdiocese’s Verified Complaint for Declaratory Relief; Verified Petition for Writs of
Mandate; and Request for Stay Order, No. CGC-10-498795 (“Archdiocese’s Complaint”)).

27 ¹⁴ Policy Index, Archdiocese of San Francisco, <https://www.sfparishconnect.com/policy-index/> (last visited Apr. 10,
2024).

28 ¹⁵ See Cal. Ev. Code sec. 662 (“The owner of the legal title is presumed to be the owner of the full beneficial title.
This presumption may be rebutted only by clear and convincing proof”); *In re Marriage of Haines*, 33 Cal.App.4th
277, 294 (Cal. Ct. App. 1995) (“The Comment of the Law Revision Commission states: “Section 662 codifies a
common law presumption recognized in the California cases.”).

1 The Parishes¹⁶ and Schools¹⁷ are divisions of the Debtor, not unincorporated associations
2 as stated in the Passarello Declaration.¹⁸ Divisions of a corporation lack “existence as a legal
3 entity and the capacity to sue or be sued.”¹⁹ To determine whether an entity is a division of a larger
4 corporation (as opposed to a separate, unincorporated association), courts consider whether the
5 entity (i) operates “within the charter of a larger corporation,” (ii) submits financial reports to the
6 parent, (iii) obtains parental approval for certain operational actions, (iv) submits to the parent’s
7 authority over its leadership and (v) holds property in the parent’s name.²⁰ Ultimately, “[c]ourts
8 have held that the control that an archdiocese exerts over its parishes and schools is a determining
9 factor of whether they are separate from or the same as the archdiocese.”²¹

10 The Archdiocese exercises the same control over the parishes and schools that a
11 corporation exerts over its divisions. While the Parishes and Schools operate with some autonomy,
12 like a corporate division, that autonomy is not the equivalent of the rights of independent
13 associations.

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18 ¹⁶ As defined in the Passarello Declaration, ¶ 14 (“88 parishes some of which have missions associated with them.”).

19 ¹⁷ As defined in the Passarello Declaration, ¶ 15 (“[F]our Archdiocesan Catholic high schools (Archbishop Riordan
20 High School, Sacred Heart Cathedral Preparatory, Marin Catholic Highschool and Junipero Serra High School,...
21 numerous elementary schools and private independent schools.”).

22 ¹⁸ Passarello Declaration, ¶ 14. Under California law, an unincorporated association is an “unincorporated group of
23 two or more persons joined by mutual consent for a common lawful purpose, whether organized for profit or not.”
24 Cal. Corp. Code § 18035.

25 ¹⁹ Michael Decl., Ex. 5, at 11 of 23 (*Decision and Order Granting Committee’s Motion for Summary Judgment Under*
26 *Bankruptcy Rule 7056*, Case No. 19-00001, Dist. of Guam “Guam Decision”) (citing *In re Fed.-Mogul Glob. Inc.*, 411
27 B.R. 148, 163-64 (Bankr. D. Del. 2008); *United States v. ITT Blackburn Co., a Div. of ITT*, 824 F.2d 628, 631 (8th
28 Cir. 1987) (an unincorporated division of a parent company lacks capacity to be sued).

29 ²⁰ See *Galiano v. Inst. of Governmental Studies at Univ. of California at Berkeley*, 07-05557 SBA, 2008 WL 4155594,
30 at *4 (N.D. Cal. Sept. 5, 2008) (holding the entity at issue was a division *not* a separate legal entity because it
31 submitted annual financial reports and its board was appointed by the head of the parent); *E.E.O.C. v. St. Francis*
32 *Xavier Parochial Sch.*, 77 F. Supp. 2d 71, 75 (D.D.C. 1999), *aff’d sub nom. E.E.O.C. v. St. Francis Xavier Sch.*, 254
33 F.3d 315 (D.C. Cir. 2000); *Kaupthing ehf. v. Bricklayers & Trowel Trades Int’l Pension Fund Liquidation Portfolio*,
34 291 F. Supp. 3d 21, 29 (D.D.C. 2017); *F.E.L. Publ’ns, Ltd. v. Catholic Bishop of Chi.*, 754 F.2d 216, 221 (7th Cir.
35 1985).

36 ²¹ Michael Decl., Ex. 5, at 14-15 of 23 (*Guam Decision*) (citing *F.E.L. Publications, Ltd. v. Catholic Bishop of*
37 *Chicago*, 754 F.2d 216, 221 (7th Cir. 1985), cert. denied 474 U.S. 824 (1985); *E.E.O.C. v. St. Francis Xavier*
38 *Parochial Sch.*, 77 F. Supp. 2d 71, 75 (D.D.C. 1999), *aff’d sub nom. E.E.O.C. v. St. Francis Xavier Sch.*, 254 F.3d 315
39 (D.C. Cir. 2000)).

1 The Parishes do not have a board of trustees; “in terms of the governance of the parish, it’s
2 the pastor.”²² Those pastors are placed in the parishes by the Archbishop and can be removed from
3 their positions if they fail to comply with the Archbishop’s requests.²³

4 The Archdiocese’s policies document that control. For example, many of the Parish bank
5 accounts cited in the Passarello Declaration²⁴ are “linked to the Archdiocese.”²⁵ The Archdiocese
6 obtains “comprehensive lists of all parish accounts from financial institutions” to check the
7 accuracy of Parishes’ financial reporting to the Archdiocese.²⁶

8 Further, the Archdiocese dictates how the Parishes and Schools manage the money in those
9 accounts. The Archdiocese requires all Parishes to deposit their excess cash in the deposit and loan
10 fund or in the CASC.²⁷ The Archdiocese also prohibits Parishes, Schools, agencies and
11 institutions from investing funds outside of the Archdiocesan pooled investment program.²⁸

12 The Archdiocese also controls the Parishes’ ability to generate income. The Archdiocese’s
13 Director of Stewardship administers the Archbishop’s fundraising policies “among all parishes and
14 missions, schools (Archdiocesan elementary and high schools), Archdiocesan agencies,
15 departments, offices and apostolates, the Catholic Youth Organization, Catholic Charities, and St.
16 Patrick’s Seminary.”²⁹ The Archdiocese prohibits Parishes and Schools and other “agencies,
17 departments, offices and apostolates” from endorsing or promoting products as part of their
18 fundraising endeavors.³⁰

19 Parishes require permission of the Archdiocese to set their personnel holiday and vacation
20 schedules and policies. The Archdiocese’s Vicar for Administration or Vicar General must sign any
21 policy before it can go into effect.³¹ All Parish employees are required to be paid through the

22 ²² *Id.*, Ex. 1, 36:11-33 (Transcript of Continued 341 Meeting on October 12, 2023).

23 ²³ *Id.*, Ex. 18, 50:24 – 51:18 (Transcript of 341 Meeting on September 28, 2023).

24 ²⁴ Passarello Declaration, ¶ 20.

25 ²⁵ Michael Decl., Ex. 6, at 26 (Parish Finance Policy Training Feb. 1, 2018)

26 ²⁶ *Id.*, Ex. 7, A1 (H) (Financial Policy Manual)

27 ²⁷ Defined below. The Archdiocese allows Parishes to keep approximately two months operating cash. *Id.*, Ex. 6, at 12 (Parish Finance Policy Training Feb. 1, 2018)

28 ²⁸ *Id.*, Ex. 7, E1 (A) (Financial Policy Manual) (“No parish or school or agency or institution may invest funds in equities/bonds outside of this Archdiocesan pooled investment program. Any parish, school, agency or institution which reserves stocks as a surplus must immediately convert that stock to cash.”).

29 ²⁹ *Id.* at (C).

30 ³⁰ *Id.* at D9 (V).

31 ³¹ *Id.*, Ex. 8, at 2 (Parish Holiday Policy).

1 Archdiocese's payroll "without exception."³² The Archdiocese also dictates policies on
2 harassment,³³ records retention,³⁴ stipends,³⁵ electronic and internet fundraising,³⁶ internet usage,³⁷
3 and construction,³⁸ among other areas.

4 Parishes and Schools also do not outwardly operate with any legal autonomy. Business
5 licenses are held in the name of the Archdiocese. For example, the Archdiocese's "Policy and
6 Guidelines for Childcare/Preschool Programs in Parishes of the Archdiocese of San Francisco"
7 states that "the school program would be sponsored by the *corporate operator of the schools, The*
8 *Roman Catholic Archbishop of San Francisco, A Corporation Sole.*"³⁹ The Archdiocese is listed as
9 the licensee for thirteen Catholic pre-schools in San Francisco.⁴⁰

10 Additionally, Parish employees are "not authorized" to sign legal agreements binding the
11 Parishes for amounts exceeding \$10,000, for a period of time exceeding one year, or relating to
12 employment contracts.⁴¹ Such documents may only be signed by the Archdiocese's Offices of the
13 Vicar General or Archdiocesan legal counsel.⁴² Finally, "[n]o parish, school, or agency may
14 initiate legal action or formally engage the services of outside legal counsel without the approval
15 of, and continued oversight by, the Archdiocesan Legal Office."⁴³

16 Parishes and Schools must comply with Archdiocese policy regarding the use of
17 "Archdiocesan property."⁴⁴ Those "Policies and Procedures are designed to provide Pastors,
18 Principals and Agency Heads with a ready resource when faced with proposed uses of
19 *Archdiocesan properties* by outside individuals and organizations. The Vicar for Administration or
20 Archdiocesan Legal Counsel should be contacted well in advance of the proposed event or use."⁴⁵

22 ³² *Id.*, Ex. 7, C5 (G) (Financial Policy Manual) (emphasis in original).

23 ³³ *Id.*, Ex. 9 (Harassment Policy).

23 ³⁴ *Id.*, Ex. 10 (Record Retention Policy).

24 ³⁵ *Id.*, Ex. 11 (Stipend Policy).

24 ³⁶ *Id.*, Ex. 12 (Electronic and Internet Fundraising Policy).

25 ³⁷ *Id.*, Ex. 13 (Internet Usage Policy).

25 ³⁸ *Id.*, Ex. 14 (Construction Policy).

26 ³⁹ *Id.*, Ex. 15 (Daycare Policy PDF) (emphasis added).

26 ⁴⁰ *Id.*, Ex. 19 (Daycare License Chart).

27 ⁴¹ Michael Decl., Ex. 7, H1 (A) (Financial Policy Manual).

27 ⁴² *Id.*, at H1(A)

28 ⁴³ *Id.*, at M1.

28 ⁴⁴ *Id.*, at K5 (B).

⁴⁵ *Id.* (emphasis added).

1 As with corporate divisions in other contexts, the Parishes and Schools control certain
2 aspects of their operations but must ultimately operate within the policies and legal confines of the
3 Archdiocese.

4 Finally, the Archdiocese represents the Parishes and Schools as part of its legal entity to third
5 parties. The Passarello Insurance Declaration states that the Parishes and Schools are Insurance
6 Participating Entities.⁴⁶ However, Archdiocesan insurance policies dating back to at least 1960 do
7 not name the Parishes and Schools in the definition of insureds that list specific insureds by name.
8 Therefore, for the Parishes and Schools to be “insureds” in accordance with the Passarello Insurance
9 Declaration, they fall under the policies’ catch-all language for entities “operated or controlled by
10 or operating under the auspices of the [RCASF].”⁴⁷ The Archdiocese also attests to Parishes and
11 Schools being “part of” the RCASF for purposes of tax exemption.⁴⁸

12 **The Cemeteries**

13 The Cemeteries⁴⁹ are also divisions of the Archdiocese. At the 341(a) meeting, in response
14 to the question “are any of [the six cemeteries] separate incorporated entities under California
15 law?” Archbishop Cordileone answered, “No.”⁵⁰

16 In addition to the above cited policies that apply to Archdiocesan property, agencies,
17 offices, and divisions, in their “governance” documents, the Cemeteries describe themselves as an
18 Archdiocese department. The bylaws for the Archdiocese of San Francisco Cemetery *Department*
19 Advisory Board states the body’s purpose is to oversee that the responsibility for the Catholic
20 cemeteries “is carried out in the Archdiocese of San Francisco *through its Cemetery Department* in
21 a manner befitting a corporal work of mercy. In fulfilling this responsibility, the Board functions
22 as an advisory to the Ordinary *of the Archdiocese* in Cemetery matters.”⁵¹ The organization chart
23 for the Catholic Cemeteries *Department* further situates the Cemeteries as a department for which
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⁴⁶ Passarello Insurance Dec., para. 4.

26 ⁴⁷ Michael Decl., Ex. 21 (TNCRRG policy). The definitions of “insured” are not all worded **exactly** the same but
essentially mean the same thing. All other policies were produced to the Committee subject to confidentiality.

27 ⁴⁸ See, e.g., Michael Decl., Ex. 20 (Letter Regarding St. Hilary School).

28 ⁴⁹ As defined in the Passarello Declaration, ¶ 15.

⁵⁰ *Id.* at 50:20-22.

⁵¹ Michael Decl., Ex. 16 (Cemeteries Production, CEMETERIES 00001).

1 the Director of Cemeteries reports to the Archdiocesan Vicar for Administration, who consults
2 with the Cemetery Advisory Board and who, in turn, reports to the Archbishop.⁵²

3 **The Support Corporations**

4 In 1953, the Debtor created the Roman Catholic Welfare Corporation of San Francisco (the
5 “Welfare Corporation”) and transferred civil law title to real property utilized by the Schools
6 (“School Properties”) to the Welfare Corporation. Civil law title to the Parish real property
7 remained with the Debtor.⁵³

8 In 2007, two new corporations were created: The Archdiocese of San Francisco Parish and
9 School Juridic Persons Capital Assets Support Corporation (“CASC”) and The Archdiocese of San
10 Francisco Parish and School Juridic Persons Real Property Support Corporation (“RPSC” and,
11 together with CASC, the “Support Corporations”).⁵⁴ In April 2008, the Welfare Corporation was
12 dissolved and its assets, including the School Properties were distributed to the Debtor.⁵⁵ The
13 Debtor then transferred at least 232 properties⁵⁶ to RPSC.⁵⁷ At approximately the same time, the
14 Debtor presumably also transferred capital assets to CASC.

15 At the time of the 2008 transfer, the City and County of San Francisco (which was seeking
16 to collect transfer taxes on account of the 232 property transfer) accused the Debtor of transferring
17 the properties “‘elsewhere precisely so it could demonstrate, when, if and as necessary, that both
18 of its pockets are empty’ in order to protect its assets from future litigants’ claims or other
19 liabilities.”⁵⁸ The Debtor did not refute that accusation, but merely noted that “any allegations
20 concerning future claims or liabilities are wholly speculative and unfounded.”⁵⁹

21 The Support Corporations may have separate boards of directors, but the boards “are
22 comprised of the Archbishop himself or persons appointed by the Archbishop *at his pleasure* or
23

24 _____
⁵² *Id.* (Cemeteries Production, CEMETERIES 00023)

25 ⁵³ *Id.*, Ex. 4, at 8 (Archdiocese's Complaint).

26 ⁵⁴ Passarello Decl., ¶¶ 22, 26.

⁵⁵ Michael Decl., Ex. 4, at 8 (Archdiocese's Complaint).

⁵⁶ This number only includes those properties transferred in the City and County of San Francisco. *Id.* at 5. Additional
27 properties in Marin and San Mateo counties were also likely transferred.

⁵⁷ *Id.* at 11

28 ⁵⁸ *Id.*, Ex. 2, at 1 (Reply Brief).

⁵⁹ *Id.*, at 1.

1 confirmed by the Archbishop, in *his sole discretion*.”⁶⁰ The board of directors of each of the
2 Support Corporations includes seven members: three must be members of the Archdiocese
3 Financial Council and four must be members of the Archdiocese College of Consultors.⁶¹ “[I]t is
4 the Archbishop who appoints (and can remove) each of the members of the Finance Council and
5 the College of Consultors.”⁶² Further, “the Archbishop has the sole discretion to confirm that
6 members of the Finance Council and the College of Consultors satisfy the canonical standards
7 necessary for membership on those bodies.”⁶³

8 Put simply (and in the Archdiocese’s own words), “the Corporation Sole has the power to
9 administer and manage the affairs, *property*, and temporalities of the Church, which include,
10 without limitation [selection and removal of officers and employees, powers and duties of officers,
11 making rules and regulations, conducting and managing the temporal affairs, adopting a corporate
12 seal and borrowing money].”⁶⁴ In the proceedings regarding its potential transfer tax liability, the
13 Archdiocese maintained that beneficial ownership did not change despite the transfers.⁶⁵

14 PART II

15 The RCASF Response to the Clergy Abuse Crisis

16 In 2022, a lay organization of faithful Catholics, Voice of the Faithful,⁶⁶ published a report
17 in which it examined the websites of all 177 dioceses and archdioceses in the United States and
18 assigned each one a score based on its child protection content.⁶⁷ The scoring was based on a
19 thirty-three question survey evaluating the following categories: Policy; Code of Conduct;
20 Reporting Abuse; Background Checks; Prevention Education & Training; Contact Information;
21 Annual Audit Reporting; Diocesan Review Boards; List of Accused Clergy; and Victim
22

23 ⁶⁰ *Id.*, at 34.

24 ⁶¹ *Id.*, at 34.

25 ⁶² *Id.*, at 35.

26 ⁶³ *Id.*, at 35.

27 ⁶⁴ *Id.*, at 35.

28 ⁶⁵ *Id.*, at 37.

⁶⁶ Voice of the Faithful is a “lay organization of faithful Catholics, who organized in 2002 as a response to the sexual abuse crisis in the Catholic Church.” Their mission “is to provide a prayerful voice, attentive to the Spirit, through which the faithful can actively participate in the governance and guidance of the Catholic Church.” *See About Us*, available at <https://www.votf.org/about/>.

⁶⁷ Michael Decl., Ex. 17, (2022 Report: Measuring Abuse Prevention and Safe Environment Programs as Reported Online in Diocesan Policies and Practices).

1 Assistance.⁶⁸ The report looked *solely* at the (arch)dioceses' publicly available policies, it did not
2 evaluate compliance with those policies.⁶⁹

3 The Archdiocese of San Francisco ranked 167 out of 177 dioceses with a score of only
4 44.5 out of 100.⁷⁰ The report noted that, at the time of the report, the Debtor was "the only
5 archdiocese with no publicly accessible policy"⁷¹ relating to child protection. The Debtor
6 similarly received a 6 out of 15 for its background check policies, 9 out of 18 for its prevention
7 education and training, 3 out of 6 for its display of contact information, 0 out of 10 for its
8 reporting regarding USCCB audit report findings, 10 out of 18 for its diocesan review board, 0 out
9 of 5 for publication of the names of clergy accused of abuse, and 3.5 out of 5 for its victim
10 assistance.⁷² The Debtor only received full marks on two categories: 5 points for its code of
11 conduct and 8 for its diocesan abuse reporting process.⁷³

12 One item that Voice of the Faithful highlighted was that diocese "must fully disclose
13 credibly accused offenders' information."⁷⁴ The report specifically notes that "[d]isclosures are a
14 recognized best practice for abuse prevention and as a deterrent to future abuse. Full disclosure
15 can demonstrate diocesan transparency about issues of clergy sexual abuse and positively inform
16 the needed trust in the institution."⁷⁵ According to ProPublica's research, as of 2020, the
17 Archdiocese of San Francisco was the fifth largest diocese in the country not to have published a
18 credibly accused list and is one of only 41 out of 219 dioceses and orders that had not released
19 such a list.⁷⁶ To this day, the Archdiocese has still not published a credibly accused list.

20 At the 341(a) meeting, Archbishop Cordileone stated, in response to an inquiry as to
21 whether the Archdiocese keeps a list of clergy for whom the Internal Review Board has made a
22 determination that the sexual abuse accusation was sustained: "We know which ones those are.

23 ⁶⁸ *Id.*, at 1.

24 ⁶⁹ *Id.*, at 1.

25 ⁷⁰ *Id.*, at 8.

26 ⁷¹ *Id.*, at 8.

27 ⁷² *Id.*, at B-6.

28 ⁷³ *Id.*, at B-6.

⁷⁴ *Id.*, at 2.

⁷⁵ *Id.* (emphasis added).

⁷⁶ Lexi Churchill, Ellis Simani and Topher Sanders, *Catholic Leaders Promised Transparency About Child Abuse. They Haven't Delivered*, ProPublica (Jan. 28, 2020), available at <https://www.propublica.org/article/catholic-leaders-promised-transparency-about-child-abuse-they-havent-delivered>

1 Yeah, we have our own list.”⁷⁷ When asked how a survivor could know whether his or her abuser
2 was “credibly accused according to the Archdiocese,” Archbishop Cordileone responded that such
3 survivor would have to contact the Archdiocese’s victim assistance coordinator.⁷⁸ In other words, a
4 survivor’s only option to obtain such information is to personally contact the institution that
5 allowed the harm to occur in the first place.

6 The Archdiocese has failed to take even the minimal steps taken by other Catholic dioceses
7 to protect children and promote healing.

8 **PART III**

9 **Events Precipitating the Bankruptcy Case**

10 The Passarello Declaration discusses the Archdiocese’s decision to file for bankruptcy due
11 to the “approximately 537 separate, active lawsuits pending against the Debtor filed by plaintiffs
12 alleging sexual abuse by clergy or others associated with the Debtor.”⁷⁹ The declaration continues
13 by stating that the “avalanche of lawsuits puts the RCASF in immediate and direct financial
14 distress and in need for a forum to resolve those claims.”⁸⁰

15 The bankruptcy was not, however, filed shortly after those 537 were filed in state court
16 rather, but was filed two days prior to the commencement of the first trial in one of those actions -
17 over two and half years after the first of the lawsuits was filed. Prior to the eve of trial, the Debtor
18 was apparently less concerned about “its moral obligation to compensate all abuse survivors fairly
19 and within a reasonable period of time.”⁸¹

20 Prior to the bankruptcy filing, all cases against the Archdiocese filed in California state
21 court were administered through Judicial Council Coordination Proceeding 5108. All discovery
22 was stayed in the pending cases except for the two bellwether cases scheduled for trial on August
23 23, 2023, and two additional cases designated as second round bellwether cases that had not yet
24

25 _____
26 ⁷⁷ Michael Decl., Ex. 1, 31:18-20 (Transcript of Continued 341 Meeting on October 12, 2023).

27 ⁷⁸ *Id.*, 32:28-32.

28 ⁷⁹ Passarello Declaration, ¶ 53.

⁸⁰ *Id.*, ¶ 56.

⁸¹ *Id.* ¶ 59. At the 341 meeting, Archbishop Cordileone did concede that plaintiffs were informed of the potential
bankruptcy two weeks prior to the filing. Michael Decl., Ex. 1, 12:10-23 (Transcript of Continued 341 Meeting on
October 12, 2023).

1 been set for trial. The only exceptions to the stay were for the “Institutional Defendants” to
2 receive “fact sheets” and authorizations for educational, mental health, medical, and employment
3 records and to share the “initial document demand sheet.” Additionally, the Plaintiffs entitled to
4 the Institutional Defendants’ fact sheets were permitted to share their consolidated requests for
5 production of documents.

6 In June 2023, the two bellwether cases were transferred to San Francisco Superior Court
7 for trial. As late as two business days prior to the bankruptcy filing, June 17, 2023, the
8 Archdiocese was still filing motions in preparation for the scheduled trial, including an attempt to
9 continue to silo claims and prohibit Plaintiff sexual abuse survivors from referencing other
10 accusations related to the same perpetrator at trial.

11 After almost four years of litigation and only days away from the opportunity for two
12 survivors to finally receive their long-awaited day in court, the Archdiocese allegedly developed a
13 concern about “fairness” that led it to file this bankruptcy. The bankruptcy has halted survivors’
14 opportunity to publicly disclose the Archdiocese’s role in their abuse.

15 Now, the Archdiocese is choosing to hide behind its bankruptcy to shield assets through
16 legal fictions and transfers, to protect the identity of individuals it allowed to abuse children, and
17 to prevent survivors from having a voice. For the time being, this Court is the only judicial forum
18 for survivors to be heard. The Committee does not believe that the Debtor’s narrative in the
19 Passarello Declaration accurately depicts the Archdiocese in relation to the parishes and affiliates
20 and created a misimpression of the background and dynamics of this case. By this response to the
21 Archdiocese’s first day declaration, the Committee is giving voice to the survivors.

1 Dated: April 19, 2024

Respectfully submitted,

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3
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